

UAC INSURANCE MUTUAL

Board of Trustees Telephonic Conference

Monday, February 8, 1999, 2:00 p.m.

A G E N D A

2:00 Call to Order

Gary Herbert

Set Date and Time for Closed Meeting
to Discuss Pending or Reasonably Imminent Litigation

Action on Litigation Matters

Kent Sundberg

Other Business

Gary Herbert

UACIM BOARD OF TRUSTEES TELEPHONIC CONFERENCE

MINUTES

February 8, 1999, 2:00 p.m.

**BOARD MEMBERS
PARTICIPATING**

Gary Herbert, *President*, Utah County Commissioner
Jerry Hess, *Vice President*, Davis County Deputy Attorney
Kent Petersen, Emery County Commissioner
Tex Olsen, Sevier County Commissioner
Sarah Ann Skanchy, Cache County Council Member
Kent Sundberg, Utah County Deputy Attorney

**BOARD MEMBERS
UNABLE TO PARTICIPATE**

Dannie McConkie, *Secretary/Treasurer*, Davis County Commissioner
Tony Dearden, Millard County Commissioner
Chad Johnson, Beaver County Commissioner
Royal Norman, Box Elder County Commissioner
Ed Phillips, Millard County Sheriff

OTHERS PARTICIPATING

Brent Gardner, UAC Executive Director
Brett Rich, Director, UACIM
Sonya White, UACIM Administrative Assistant
Doug Alexander, Claims Administration Branch Manager

CALL to ORDER

Gary Herbert called the meeting to order and welcomed those participating.

SET DATE and TIME for CLOSED MEETING

Sarah Ann Skanchy made a motion to set the date and time for a closed meeting to begin at 2:00 p.m. on February 8, 1999, to discuss pending or reasonably imminent litigation. Kent Petersen seconded the motion, which passed unanimously.

Kent Petersen made a motion to conclude the closed meeting at 2:35 p.m. on February 8, 1999. Tex Olsen seconded the motion, which passed unanimously.

ACTION on LITIGATION MATTERS

Tex Olsen made a motion authorizing Brett Rich to negotiate with Kathleen Brady, AIG Excess Casualty Claims Department, that in exchange for AIG rendering UAC Insurance Mutual control of litigation or settlement of claim number 801DAV947057 from this date forward, UAC Insurance Mutual will release AIG of responsibility for all amounts starting at \$150,000 down to \$125,000 plus expenses. If this proposal is not accepted then UAC Insurance Mutual proposes that AIG pay UAC Insurance Mutual \$100,000 (the amount at which AIG was willing to settle) and UAC Insurance Mutual will release AIG of all responsibility on claim number 801DAV947057. Kent Petersen seconded the motion, which passed unanimously.

Approved on February 26, 1999


Dannie R. McConkie, *UACIM Secretary-Treasurer*
Davis County Commissioner

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sonya@uacnet.org

UAC Insurance Mutual

Fax

To: UACIM Board of Trustees:

Gary R. Herbert, Utah County Commissioner
Gerald E. Hess, Davis County Deputy Attorney
Dan McConkie, Davis County Commissioner
Tony J. Dearden, Millard County Commissioner
Chad W. Johnson, Beaver County Commissioner
Royal Norman, Box Elder County Commissioner
Kent Petersen, Emery County Commissioner
Ed Phillips, Millard County Sheriff
Tex Olsen, Sevier County Commissioner
Sarah Ann Skanchy, Cache County Council Member
Kent Sundberg, Utah County Deputy Attorney

From: Sonya White

Pages: 1

Date: February 4, 1999

Re: Telephonic Conference

● Comments:

Please plan to participate in a telephonic conference to discuss claim number 801DAV947057. The conference is scheduled for Monday, February 8, at 2:00 p.m. Call 1-800-944-6239 and ask for the Brett Rich conference.

If you are unable to participate, sign below and fax back.

_____ will be unable to join the telephonic conference.
Name of Trustee

February 10, 1999

Ms. Kathleen Brady
AIG Technical Services
Excess Casualty Claims Department
70 Pine Street, 8th Floor
New York, New York 10270

Re: Foote v. Davis County; Claim No. DAV 94-007057

Dear Ms. Brady,

The purpose of this letter is to clarify your direction in the Kristen Foote case and to propose an alternative that will limit the exposure of your company, while at the same time allow UACIM to attempt to minimize the negative impact of a large settlement on other cases.

Briefly summarized, Kristen Foote filed an action in federal court, claiming violations of her civil rights in connection with her traffic stop and arrest by state officers and her subsequent strip search at the Davis County Jail. The State of Utah and 2 of its officers are named in the suit as well as Davis County and the matron who conducted the strip search. As you are aware, the Foote case is scheduled for trial beginning February 16, 1999.

To the best of my knowledge, as the representative of the excess carrier, Doug Alexander has notified you of important developments since the very early stages of this litigation. Because this is a 1994 claim, for which your company is responsible, we have looked to you for direction regarding settlement negotiations and amounts. My understanding at this point is that you want this case settled up to \$100,000 before trial. Our latest offer was \$41,000 and the latest written offer or counter-offer from the claimant was \$125,000, although claimant's attorney apparently indicated that he thought claimant would accept \$100,001 as a bottom line.

Although we recognize AIG's interest and exposure in this case, the UACIM Board of Trustees and I feel quite strongly that a settlement at, or approaching \$100,000 in this case will result in a substantial negative impact on other cases now pending or anticipated. At present, ten other claimants allege that they were wrongfully strip-searched, most of them in the Davis County Jail. Two of those are 1994 claims and seven are from 1995. While we understand that the policies and procedures at that facility were updated some time ago, others may still come forward with similar claims. This settlement will almost certainly be seen by all other claimants as the benchmark. Our concerns over a large settlement are based partly on the results of past settlements in similar cases on the number of additional cases filed and on the amounts demanded by claimants.

During our phone conversation last week, I expressed my concerns on this matter. Since that time, at a meeting of the Board of Trustees, the Board concurred in those concerns. While your interest in capping the exposure is certainly valid, AIG would also benefit significantly if a jury awards an amount lower than \$20,000 in this case. On March 13, 1998 our attorney Rob Wallace filed an Offer of Judgment in the amount of \$29,000. Two weeks earlier, the plaintiff's attorney indicated in a letter that their fees at that time were less than \$9,000. A successful offer of judgment would mean at least some recouping of our attorney fees in this case and would certainly be helpful in resolving the remaining cases.

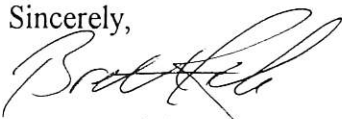
Inasmuch as both AIG and UACIM have significant interests in this case, but also have a difference in opinion about how to proceed from this point, UACIM proposes the following:

That UACIM and AIG agree that in exchange for AIG allowing UACIM to control the litigation or settlement of the Foote case from this date forward, UACIM will release AIG for responsibility for all amounts exceeding \$150,000, for this one case, after the date of the agreement.

The disadvantage of this proposal for AIG is an increase in exposure on this one case, of \$50,000 over settling for \$100,000. The advantages are: 1) if this case settles for a lower amount, AIG saves money immediately; 2) if the Offer of Judgment is successful AIG will likely recover most of the costs of defense; and 3) if either the Offer of Judgment is successful, or the case settles substantially lower other potential claimants are less likely to file and present claims should be easier to resolve.

Due to the rapidly approaching trial date and need for direction, we ask that you consider this proposal and respond as soon as possible.

Sincerely,



Brett B. Rich
Director, UACIM

cc: Mr. Brian Dolan
Mr. Doug Alexander

